

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 6, 2023**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 6, 2023, at 10:00 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 251 23  
Approve  
Agenda**

Mr. Lawson reported that the Presentation from Ms. Sarah Carter and Mr. Dan Cruce, United Way of Delaware could be removed from today's agenda. A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda as amended.

**Motion Adopted: 4 Yeas, 1 Absent**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Minutes**

The minutes from May 23, 2023, were approved by consensus.

**Corre-  
spondence**

Mr. Moore read a letter received from Delaware Technical Community College and Delaware Community Foundation thanking Council for their grant received.

**Public  
Comments**

Public comments were heard.

Ms. Renita Harmon spoke about homelessness and changing laws relating to housing.

Ms. Jill Hicks commented about disabling the public's ability to call-in with their comments during the P&Z meetings and hearings.

**Consent Agenda**                    **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to approve the following item under the Consent Agenda:**

**M 252 23**                    **Proclamation Request – Cape Henlopen Boys Volleyball Team State**  
**Approve**                    **Championship**  
**Consent**

**Agenda**                    **Motion Adopted:        5 Yeas**

**Vote by Roll Call:       Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**SCEMS**                    **Mr. Lawson recognized the SCEMS Team for winning the 2023 JEMS**  
**Team**                    **games gold medal.**  
**Recognition**

**Adminis-**                    **Mr. Lawson read the following information in his Administrator’s Report:**  
**trator’s**

**Report**                    **1. Ann Tyndall**

**It is with sadness that we note the passing of County pensioner Ann Tyndall on Sunday, May 14<sup>th</sup>. Ms. Tyndall began her career with Sussex County in January 1970 and retired from the Assessment Department as an Assessment Clerk in July 1991 for a total of 21 years of service. We would like to extend our condolences to the Tyndall family.**

**[Attachments to the Administrator’s Report are not attached to the minutes.]**

**Pension**                    **Gina Jennings, Finance Director presented a pension update and**  
**Update &**                    **recommendation to change investment policy statements for Council’s**  
**Recommendation**       **consideration. Mrs. Jennings reported that included in the packet was a**  
**quarterly pension report and the minutes from the Pension Committee that**  
**was held on May 18<sup>th</sup>. During the May meeting, two items were discussed:**

- Marquette Associates, the County’s investment advisor, reviewed the County’s investment performance. As of the end of April, the pension fund was valued at \$145.8 million and realized a net return of 6.8% and the OPEB fund was valued at \$59.2 million and realized a net return of 6.7%**
- The Pension Commission discussed changing the investment policy statements for both funds to increase performance and lower risk.**

**Mrs. Jennings reported that today, she will be making the pension committee’s recommendation to add bank loans to our investment policy in return lowering our risk to equities. The recommendation will also include decreasing our allocation to real estate and adding more weight to infrastructure.**

**Pension Update & Recommendation**

**Mr. Pat Wing, Marquette Associates came forward to provide an explanation on what it would look like if the changes are implemented that are being recommended by the pension committee.**

**Mr. Wing explained that it is believed that it is worth considering the changes to the strategic asset allocation. The reasons to consider these changes are:**

- **The Actuarial Assumed Rate of Return was lowered from 7.00% to 6.75%.**
- **The outlook for fixed income has improved considerably given the rise in interest rates.**
- **Opportunity to diversify the equity risk within the Funds.**
- **The outlook for Core Real Estate is concerning.**

**Mr. Wing reviewed the asset class roles, bank loan characteristics, historical correlations for the last 15 years and asset allocation targets. In addition, he showed a graph outlining cumulative returns annualized and a graph showing future projections.**

**M 253 23  
Approve Pension Committee Recommendation**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer that be it moved, through the recommendation of the Pension Committee, Sussex County Council changes both the Pension and OPEB investment policy statements to add Bank Loans with a 3% target by decreasing the domestic equities target by 3% and also increasing the infrastructure target 2% by decreasing the real estate target by 2%.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Auditing Services RFP**

**Gina Jennings, Finance Director presenting auditing services RFP results and a possible award for Council's consideration. Mrs. Jennings reported that three proposals were received: BDO USA, LLP; CliftonLarsonAllen LLP; UHY, LLC. A summary of the bid evaluations were included in the packet. The bids were graded on experience and reputation, quality of audit firm, capacity to perform, credentials and experience, and price.**

**It is being recommended to select BDO USA, LLP to perform audit services for the next three fiscal years with the option to extend the contract for another three one-year periods, by mutual agreement.**

**M 254 23  
Approve Auditing Services RFP**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved through the recommendation by the Finance Department, the Sussex County Council approve entering into an auditing services agreement with BDO, USA LLP as presented.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**ARPA Non-Profit Grant Program Recommendations**

**Gina Jennings, Finance Director presented ARPA non-profit grant program recommendations for Council's consideration. Mrs. Jennings reported that in March, an update on the County's ARPA funds was presented to Council. At that time, it was recommended that the Council endorse a grant program that would allow non-profits to demonstrate they were financially impacted by the pandemic.**

**After review by the Finance Department, it is being recommended to award 23 entities amounts ranging from \$1,568 to \$40,000. The awards were based on both the financial calculation and clarification that the financial impacts were COVID-19 related.**

**If approved, the Finance Department will reach out to the entities and notify them of their award. The non-profit will then sign a certification provided prior to the funds are released.**

**M 255 23  
Approve  
ARPA Non-Profit  
Grants**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved though the recommendation by the Finance Department, the Sussex County Council award the non-profit ARPA grants contingent on the non-profit final certification being signed.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**SC WRF/  
CO No. 28**

**Hans Medlarz, County Engineer presented change order no. 28 for project C19-04, South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvements program, phase 2, general construction for Council's consideration.**

**M 256 23  
Approve CO  
No. 28/ SC  
WRF**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer it moved based upon the recommendation of the Sussex County Engineering and Finance Departments that change order no. 28 for contract C19-11, South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvement program, phase 2 – general construction, be approved, increasing the contract by \$108,583.52.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;**

**Mr. Vincent, Yea**

**EMS Bldg/  
CO No. 25  
& Close-out**      **Hans Medlarz, County Engineer presented change order no. 25 and a close-out request for the EMS public safety building, project C19-04 for Council's consideration.**

**M 257 23**      **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 25 for contract C19-04, Sussex County public safety building, be approved, for an increase of \$42,416.59 and that substantial completion be granted effective June 5, 2023, with any held retainage released in accordance with the contract documents.**  
**Approve**  
**EMS Bldg**  
**CO No. 25**  
**& Close-out**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Mulberry  
Knoll/CO  
No. 1**      **Hans Medlarz, County Engineer presented change order no. 1 and a request for granting substantial completion for Mulberry Knoll sewer collection system, project S20-22 for Council's consideration. Mr. Medlarz reported that most of the change order items are related to DeIDOT items.**

**M 258 23**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 1 for contract S20-22, Mulberry Knoll sewer collection system, be approved, for an increase of \$119,215.57 and that substantial completion be granted effective May 25, 2023, with any held retainage released in accordance with the contract documents, contingent upon SRF concurrence.**  
**Approve**  
**Mulberry**  
**Knoll/CO**  
**No. 1**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**SC Library  
Roof Top  
Unit Replac-  
ement**      **Hans Medlarz, County Engineer presented a recommendation to award for South Coastal Library roof top unit replacement for Council's consideration. Mr. Medlarz reported that the unit serving the Childrens Room, and several other spaces is at the end of its service life.**

**M 259 23**      **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department that the contract for the South Coastal Library roof top unit replacement be awarded to Joseph T. Richardson for their total bid of \$63,300.**  
**Approve SC**  
**Library**  
**Roof Top**  
**Unit Replac-  
ment**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Cannon Rd/  
IB Drainage  
Improve/CO  
No. 1** Hans Medlarz, County Engineer presented change order no. 1 for Cannon Road – Inland Bays Road drainage improvements and constructed wetlands, project S22-05 for Council’s consideration.

**M 260 23  
Approve CO  
No. 1/IB  
Drainage  
Improvements** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 1 for contract S22-05, Cannon Road/Inland Bays Road drainage improvements and constructed wetlands, be approved, increasing the contract by \$34,953.00.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Old  
Business/  
CU2336** Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS” filed on behalf of Community Power Group, LLC.

The County Council held a Public Hearing on the application at its meeting of January 24, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 261 23  
Adopt  
Ordinance  
No. 2924/  
CU2336** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2924 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development.

**M 261 23  
Adopt  
Ordinance  
No. 2924/  
CU2336  
(continued)**

- 3. The proposed facility promotes Goal 7.9 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.**
- 4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.**
- 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 6. The entire site is 39.45 acres in size. The solar farm will only utilize approximately 25 acres of the property.**
- 7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.**
- 8. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. This recommendation is subject to the following conditions:**
  - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**
  - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
  - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
  - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
  - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.**
  - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
  - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
  - h. There shall be a vegetated buffer that is at least 15 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. These plantings shall include a double row of screening along the western boundary and the existing screening shall be bolstered along the southern and eastern**

**M 261 23  
Adopt  
Ordinance  
No. 2924/  
CU2336  
(continued)**

**boundaries.**

- i. The Final Site Plan shall identify a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for Council's consideration.**

**M 262 23  
True Blue  
Jazz, Inc.**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$10,000 (\$1,000 from Mr. Rieley's Councilmanic Grant Account, \$2,000 from Mr. Schaeffer's Councilmanic Grant Account, \$200 from Mrs. Green's Councilmanic Grant Account, \$2,000 from Countywide Youth Grant, \$3,000 from Mr. Vincent's Councilmanic Grant Account and \$1,800 from Mr. Hudson's Councilmanic Grant Account) to True Blue Jazz, Inc. for operating expenses.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 263 23  
Greenwood  
Police  
Department**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to Greenwood Police Department for their Night Out event.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 264 23  
Slaughter  
Neck  
Community  
Action  
Organizati-  
on, Inc.**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to Slaughter Neck Community Action Organization, Inc. for their Senior Center program.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 265 23  
Eastern  
Shore  
AFRAM  
Festival**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Vincent’s Councilmanic Grant Account) to Eastern Shore AFRAM Festival Inc. for their annual festival.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Introduction  
of Proposed  
Ordinances**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS” filed on behalf of Kent Walston, LLC**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1492 (ORDINANCE NO. 1653), RELATING TO CONTRACTING WORK, OFFICE WORK, AND GENERAL BUSINESS TO BE CONDUCTED ON THE SITE, AND ALSO RELATING TO OCCUPANCY OF THE UNITS AS A PRINCIPAL PLACE OF BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.80 ACRES, MORE OR LESS” filed on behalf of Beach Buggies, LLC**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.7189 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.9655 ACRES, MORE OR LESS” filed on behalf of Seaford Community Energy Initiative, LLC**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.**

**The Proposed Ordinances will be advertised for Public Hearings.**

**CC Member  
Comments**

**There were no Council member comments.**

**M 266 23**      **At 11:17 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Go Into**  
**Executive**      **Schaeffer to recess the Regular Session and go into Executive Session to**  
**Session**        **discuss matters relating to land acquisition and pending/potential**  
                      **litigation.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:    Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                              **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                              **Mr. Vincent, Yea**

**Executive**      **At 11:22 a.m., an Executive Session the Sussex County Council was held in**  
**Session**        **the Basement Caucus for the purpose of discussing matters relating to land**  
                      **acquisition and pending/potential litigation. The Executive Session**  
                      **concluded at 12:16 p.m.**

**M 267 23**      **At 12:18 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Reconvene**  
**Session.**        **Rieley to come out of Executive Session and reconvene the Regular**

**Motion Adopted:      4 Yeas, 1 Absent**

**Vote by Roll Call:    Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                              **Mr. Hudson, Absent; Mr. Rieley, Yea;**  
                              **Mr. Vincent, Yea**

**E/S Action**      **There was no action relating to Executive Session matters.**

**M 268 23**      **At 12:19 p.m., a Motion was made by Mr. Rieley, seconded by Mrs. Recess**  
**Green to recess until 1:30 p.m. Public Hearings.**

**Motion Adopted:      4 Yeas, 1 Absent**

**Vote by Roll Call:    Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                              **Mr. Hudson, Absent; Mr. Rieley, Yea;**  
                              **Mr. Vincent, Yea**

**M 269 23**      **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Reconvene**  
**Schaeffer to reconvene.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:    Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                              **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                              **Mr. Vincent, Yea**

**Rules**            **Mr. Moore read the rules and procedures for public hearings.**

**Public  
Hearing/  
CU2353**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 28.09 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 55.00 ACRES, MORE OR LESS” (properties lying on the south side of Gum Tree Road [S.C.R. 405], the west side of DuPont Boulevard [Rt. 113], and the north side of Blueberry Lane [S.C.R. 402]) (911 Address: N/A) (Tax Map Parcels: 433-6.00-18.00, 20.00 & 26.00) filed on behalf of Sussex CSG 2, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 11 recommended conditions as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Council found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant. Mr. Fuqua stated also present were Mr. Nick Walsh on behalf of the Applicant and Mr. Alan Decktor of Pennoni Associates; that both this application and the following application are for solar array facilities, being filed by the same Applicant; that he requested to have the comments for the current Application be included into the record for the next application, C/U 2354 Sussex CSG 1, LLC; that there was an exhibit booklet submitted into the record, containing information about the Application; that the applicant is owned by a company called Dimension Renewable Energy, who is a national company that focuses on community solar facilities; that Dimension operates many community facilities throughout the United States; that he was first contacted by the company in October 2021; that the solar facilities Conditional Use applications were both filed about a year ago; that at the time community solar facilities were fairly new to him and the Council; that both the Planning Commission and County Council have had numerous public hearings on community solar applications; that this application involves three tax map parcels containing a total of about 54 acres of land; that the land is owned by Frankford Center, LLC; that the 54 acre parcel is located just west of Frankford; that it has road frontage on the Southside of Gum Tree Road on the North; that the west side of the property borders Route 113; that the applicant will be leasing about 29.01 acres of the 54 acres site; that the western portion of the property is what is being leased; that the lease will be a 25 year term with two five year options to extend the lease; that the Conditional Use area will border the remainder of the parcel to the North and the East; that there is a tax ditch and a DPL right-of-way to the west of the site; that there are several residential properties located at the south portion of the site; that a portion of the 54 acres is zoned C-1; that the remainder of the site is zoned AR-1; that the Conditional Use**

**Public  
Hearing/  
CU2353  
(continued)**

area is all contained within the AR-1 zoned area; that under the Comprehensive Plan Land Use Map, the C-1 is designated as Commercial and the AR land is part of a town center area and a developing area; that 7.3 of the Sussex County Comprehensive Plan encourages the use of renewable energy options such as community solar facilities; that the site entrance will be from Gum Tree Road to the north; that the entrance will be designated and constructed in accordance with DelDOT requirements; that there will be a gravel access road that will extend along the western side of the solar array field; that there will be one unlit site at the entrance not to exceed 32 square feet; that DelDOT indicated the traffic impact would be diminutive; that there are no on-site employees; that the equipment is monitored remotely; that there will be a seven-foot security fence around the perimeter of the solar array area, with an emergency key box located at the entrance; that the solar arrays will be ground mounted, flex track, solar panels; that other equipment will consist of inverters and transformers, which are to be located on an equipment pad located on the site; that the solar grounds will be seeded with a pollinator seed mix, providing a slow growing and environmentally friendly ground cover; that a landscaper buffer is shown on the plan; that a detailed landscaping will be submitted; that there is no noise or other nuisance type impacts associated with the facility; that a Glare Analysis was performed; that the study indicated a very minimal potential for glare at limited times of the year; that glare would have a slight impact based on the location of the site; that stormwater management will comply with state and local regulations; that there is no sewer or water impact from the operation; that the facility is anticipated to generate 7.62 GW hours of electricity; that the facility will connect to the DPL grid near the entrance; that the anticipated production of the life of the facility is 30-35 years; that there is a copy of the decommissioning plan in the exhibit book; that the estimated cost of the security decommissioning bond would be provided as part of the Final Site Plan; that the facility would operate in compliance with Title 26 of the Delaware Code, which regulates community owned energy generating facilities and the Planning and Commission recommended approval subject to the conditions provided which the applicant approves.

There were no public comments.

The Public Hearing and public record were closed.

**M 270 23  
Defer  
Action/  
CU2353**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 28.09 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 55.00 ACRES, MORE OR LESS”.

Motion Adopted: 5 Years

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2354**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS” (property lying on the south side of Old Racetrack Road [S.C.R. 502], approximately 0.75 mile east of Delmar Road [Route 54]) (911 Address: N/A) (Tax Map Parcel: 532-20.00-14.00) filed on behalf of Sussex CSG 1, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 11 recommended conditions as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Council found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant. Mr. Fuqua stated also present were Mr. Nick Walsh on behalf of the Applicant and Mr. Alan Decktor of Pennoni Associates; that both this application and the following application are for solar array facilities, being filed by the same Applicant; that there was an exhibit booklet submitted into the record, containing information about the Application; that the applicant is owned by a company called Dimension Renewable Energy, who is a national company that focuses on community solar facilities; that Dimension operates many community facilities throughout the United States; that he was first contacted by the company in October 2021; that the solar facilities Conditional Use applications were both filed about a year ago; that at the time community solar facilities were fairly new to him and the Council; that currently he believed both the Planning Commission and County Council have had numerous public hearings on community solar applications; that the Conditional Use request is for a solar facility to be located on a portion of a 49 acre parcel that is owned by Shore Properties, Inc.; that the land is located on the south side of Old Racetrack Rd., being northwest of the Town of Delmar municipal limits; that the Applicant would be leasing approximately 23.58 acres, located at the southeastern portion, of the 49 acre site; that the lease would be for 25 years, with two five year renewal options; that the Conditional Use area borders woodlands to the south; that the Conrail Railroad track is located to the east; that HI (Heavy Industrial) land is located to the north of the site; the entire parcel is zoned AR-1 (Agricultural Residential);**

**Public  
Hearing/  
CU2354  
(continued)**

that the site is designated as Industrial Area under the Comprehensive Plan's Future Land Use Map; that the solar field is located in the south east corner of the site; that the entrance would be from Old Racetrack Rd., located to the north; that the entrance would be designed and constructed to DelDOT's requirements; that a gravel access road would cross a portion of the unleashed land, to access the site, per an easement agreement; that DNREC has indicated that they have no objection to the proposed crossing of the Meadow Branch tax ditch, which runs across the property; that there would be one unlighted sign at the entrance, not exceeding 32 sq. ft. in size; that DelDOT indicated the traffic impact would be diminutive; that construction access would be very minimal and limited to inspections and maintenance; that there will be a seven-foot security fence around the perimeter of the solar array area, with an emergency key box located at the entrance; that the solar arrays will be ground mounted, flex track, solar panels; that other equipment will consist of inverters and transformers, which are to be located on an equipment pad in the middle of the solar array field; that the solar grounds will be seeded with a pollinator seed mix, providing a slow growing and environmentally friendly ground cover; the a Maintenance and Operations Plan is included within the exhibit book; that there will be no impact on sewer and water; that stormwater management will comply with State and County requirements; that there is a small area of Federal non-tidal wetlands located at the southern boundary of the solar array area; that the site design provides for a 25 ft. wide buffer around the edge of the wetlands; that in that area the perimeter boundary fence would be placed outside of the wetland buffer area; that the buffer would be located outside of the fence, with no intrusion within 25 ft of the wetland line; that there is an existing tree line located along a portion of the northern, eastern and southern boundaries of the site; that the trees will remain as a natural buffer, except for some selective trimming or removal of trees to allow the solar panels to function properly; that there is no noise or other nuisance type impacts associated with the facility; that a Glare Analysis was performed; that the study indicated a very minimal potential for glare at limited times of the year; that glare would have a slight impact based on the location of the site; that the facility is anticipated to generate 6.69 GW of electricity, which is equivalent to service the annual power needs of 750 homes; that the project will connect to the Delmarva Power grid at a location near the site entrance along Old Racetrack Rd.; that there is a substation located across the road; that a Decommissioning Plan was included within the exhibit booklet; that the estimated cost of the security decommissioning bond would be provided as part of the Final Site Plan; that the facility would operate in compliance with Title 26 of the Delaware Code, which regulates community owned energy generating facilities; that at the May 25<sup>th</sup>, the PZ Commission recommended approval of the application subject to conditions; that the applicants finds all conditions acceptable; and he requested for approval of the application.

There were no public comments.

**The Public Hearing and public record were closed.**

**M 271 23  
Defer  
Action/  
CU2354**

**A Motion was made by Mr. Hudson, seconded by Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS”.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing /  
CU2372**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” (property lying on the west side of Cedar Corners Road [S.C.R. 638], approximately 0.8 mile south of Redden Road [Rt. 40]) (911 Address: 17490 Cedar Corners Road, Bridgeville) (Tax Map Parcel: 430-17.00-62.00) filed on behalf of Augusto Morales Morales**

**The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 11 recommended conditions as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Council found that Mr. Kevin Morales Perez spoke on behalf of his father’s Application. Mr. Perez stated he was presenting on behalf of his father, that they own a small, family-owned landscape business; that they have a few dump trucks and trailers; that the equipment is stored outdoors; that there is other equipment that stays outdoors but is covered with a roof; that small equipment is stored inside; that the lot is wooded; that it was shown where the equipment was stored outside; that conditions were provided to the applicant which were understood; that there would not be any retail sales.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 272 23  
Adopt  
Ordinance  
No. 2925  
/CU2372**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2925 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” for the reasons and conditions as given by the Planning and Zoning Commission as follows:**

- 1. The property is located on a 5-acre parcel, among other large parcels of land. Only a small portion of the site will be used for the business. It is an appropriate location for this limited type of use.**
- 2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.**
- 3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.**
- 4. The use will not adversely affect area roadways or neighboring properties.**
- 5. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 6. The applicant stated that if any grass clippings, wood, dirt, or other materials are brought back to the site, they are composted or recycled back into agricultural use.**
- 7. There was no opposition to this application.**
- 8. This recommendation is subject to the following conditions:**
  - a. This use shall be limited to a landscaping business.**
  - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
  - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
  - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
  - e. The hours of operation shall be limited to 7:00 am through 8:00 pm, Monday through Friday, and from 7:00 am until 3:00 pm on Saturdays. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.**
  - f. The areas set aside for composting or recycling of materials brought back to the site shall be shown on the Final Site Plan with the type of containment used to keep them in place.**
  - g. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**

**M 272 23  
Adopt  
Ordinance  
No. 2925  
/CU2372  
(continued)**

- h. Since this conditional use will only occupy a small portion of the property, the Final Site Plan shall show the area where this conditional use will be located.**
- i. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2391**

**A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS" (property lying on the northeast side of Cedar Lane [S.C.R. 318], approximately 950 ft. southeast of Wood Branch Road [S.C.R. 321]) (911 Address: 22491 Cedar Lane, Georgetown) (Tax Map Parcel: 135-20.00-142.00) filed on behalf of M.R.O. Auto Repair, LLC**

**The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 13 recommended conditions as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Council found that Mr. Danny Perez spoke on behalf of the Applicant. Mr. Perez stated he is the agent for the Conditional Use; that also present was the Applicant, Mr. Mario Roblero Ortiz; that the application is for a small auto repair shop to be located on the Applicant's property; that he provided the name of the company that will be picking up the used oil, Crystal Clean which is out of Baltimore; that the repairs will be done in the garage on the site; that there is a fence on the property; that the auto repair business is small and does not operate seven days a week; that the hours of operation are limited to 10:00 a.m. until 5:00 p.m.; that only two to three vehicles will be worked on at a time.**

**Public  
Hearing/  
CU2391  
(continued)**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 273 23  
Adopt  
Ordinance  
No. 2926/  
CU2391**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2926 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:**

- 1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.**
- 2. The site is located in a Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.**
- 3. There is a home on the site and the repairs will occur inside of a separate building on the site. The Applicants intend to keep the residential appearance of the property.**
- 4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.**
- 6. This recommendation for approval is subject to the following conditions and stipulations:**
  - a. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
  - b. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
  - c. The area of this use shall be screened from the view of neighbors and roadways with fencing. The location and type of fencing shall be shown on the Final Site Plan.**
  - d. All repairs shall be performed indoors. No automobile parts shall be stored outside, and no more than 3 cars awaiting service shall be parked outside at any one time.**
  - e. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.**
  - f. There shall not be any parking in the front yard setback.**
  - g. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.**
  - h. No cars shall be sold on the property.**

**M 273 23  
Adopt  
Ordinance  
No. 2926/  
CU2391  
(continued)**

- i. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
- j. The site shall be subject to all DeIDOT entrance and roadway requirements.
- k. The hours of operation shall be 8:00 a.m. through 8:00 p.m., Monday through Friday, and 9:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.
- l. Any violation of these conditions may be grounds for termination of this conditional use.
- m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Public  
Hearing/  
CZ1986**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS” (property lying on the north side of Johnson Road [S.C.R. 207], approximately 0.12 mile east of DuPont Boulevard [Rt. 113]) (911 Address: 18017 & 18033 Johnson Road, Lincoln) (Tax Map Parcel: 130-6.00-115.00) filed on behalf of JKJ Properties, LLC**

**The Planning & Zoning Commission held a Public Hearing on the application on April 27, 2023. At the meeting of April 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined.**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Commission found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, LLC spoke on behalf of the Applicant, JKJ Properties, LLC; that also present was Mr. Jim Weller, the managing member of JKJ Properties, LLC. Mr. Davidson stated that Mr. Weller may also be known as the owner of Weller Utility Trailers, located and he is also the host of the Weller Does Delmarva live broadcast on 105.9 FM News Talk; that the application is requesting approval to rezone the land being within AR-1 (Agricultural Residential) zoning district, located on 1.22 acres, on the north side of Johnson Rd., approximately 300-ft. east of DuPont Blvd., within Cedar Creek Hundred; that the Applicant is requesting to rezone the property to C-2 (Medium Commercial) Zoning; that the property was purchased by Mr. Weller on November 5, 2021; that Mr. Weller additionally owns the properties out front, along Rt. 113; that Mr. Weller purchased his first property at 16 years of age and he had worked at that property since the age of nine; that he later purchased the corner commercial property, which is located adjacent to the subject property; that the property is bordered on the south by Johnson Rd., which is a major collector road; that the property is**

**Public  
Hearing/  
CZ1986  
(continued)**

**bordered on the north and east side by some AR-1 (Agricultural Residential) zoned lands; that Mr. Weller owns to the adjacent property to the west, which is zoned C-1 (General Commercial) and currently being the location for Stokely Materials; that in Ordinance 2550, Sussex County Council desired to create a more specific C-2 (Medium Commercial) Zoning District, with smaller, more related uses within the district to promote better planning and predictability in Sussex County; that the purpose of the C-2 (Medium Commercial) district is to support uses that include retail sales, performance and consumer services, that permits a variety of retail, professional and services businesses; that the Ordinance states the district shall be primarily located near arterial and collector streets, while accommodating community commercial uses that do not have outside storage or sales; that by granting the request to rezone to C-2 (Medium Commercial) will allow Mr. Weller to expand his existing commercial use, located on Rt. 113, which will allow him to continue his business plan to create quality commercial flex space, that will focus on customers from the nearby and existing future communities; that in the property's present state, Mr. Weller anticipates the ability to lease the property to small contractors, plumbers, and electricians, with the right to utilize the existing buildings and the property for office and inside storage; that currently the property is being leased for residential use, as there are two single-family dwellings on the property; that there are storage buildings located to the rear of the property; that there are currently two addresses listed for the property; that the property is located within the vicinity of other commercially zoned properties and uses; that they feel the rezoning would not diminish or impair property values within the neighborhood, will not create a public nuisance or result in any increase in public expenditures; that the property is identified to be in an area classified as Low Density per the 2019 Sussex County Comprehensive Plan; that the property is located to adjacent commercial properties, as well as, located adjacent to other developing areas; that the Sussex County Plan suggests that each application should be reviewed on its own merit, and does not have a negative impact on the surrounding area or the County in general; that Mr. Weller does own the adjacent properties, which are the current locations for Stockley Materials and Bean's Attic, LLC retail and antique shop; that the property is located in an area that has traditionally been used for both commercial and industrial uses; that located on the submitted aerial zoning map of the area, the grey colored area, located within the upper right-hand corner, reflects Industrial Zoning; that the Industrial zoned areas are the location of the Fitzgerald Savage yard; that there is a B-1 (Neighborhood Business) property located directly across the street; that located across Johnson Rd. is a property subject to a Conditional Use for an auto repair shop; that although the Town of Lincoln is not incorporated, the subject property is part of the Lincoln community, being just west of the Town Center of Lincoln; that the property is located along a major collector road, which according to DelDOT's Highway Functional classification; that additional right of ways and easements will be dedicated during final planning for the**

**Public  
Hearing/  
CZ1986  
(continued)**

property; that DelDOT did not require a Traffic Impact Study (TIS); that the focus for the retail and offices uses within the Low Density areas is to provide convenience goods and services to the nearby residences; that since the Comprehensive Plan is a guide for the future use of land, the County's Zoning Map must be consistent with the uses and intensities of uses provided in the Future Land Use Plan; that Table 4.5-2 is provided as a tool for assisting; that C-2 (Medium Commercial) is an applicable zoning district within the a Low Density are; that the 2020 Strategies for State Policies and Spending indicate the property is located within Investment Level 3; that there are no wetlands located on the property; that the property is located within Flood Zone X; that there are no historical or natural features located on the site; that stormwater will be placed on the site, using all best management practices, as well as, meet all the minimum requirements State requirements for stormwater management, until central sewer is located in the Lincoln area; that the site will utilize an on-site sanitary sewer system within the property; that the wells located on the property will all be permitted by DNREC; that the proposed rezoning meets the general purpose of the Zoning Ordinance; that the site is located in an appropriate location, by meeting the purpose of the district, the Future Land Use Plan, and the strategies and objectives of the Comprehensive Plan; that the proposed rezoning promotes growth and development through community design, mobility, utilities, transportation and economic development in an area where a general mixture of commercial and service activity now exists and is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

There were no public comments.

The Public Hearing and public record were closed.

**M 274 23  
Adopt  
Ordinance  
No. 2927/  
CZ1986**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 2927 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS" for the reasons given by the Planning and Zoning Commission as follows:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 along Route 113, near the intersection with Johnson Road. The property is adjacent to the property at the intersection that is zoned C-1 and other properties at the intersection are zoned C-1, HI, and B-1. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location along Johnson Road near its

**M 274 23  
Adopt  
Ordinance  
No. 2927/  
CZ1986  
(continued)**

**intersection with Route 113 will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.**

- 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 5. The site is mostly in the “Low-Density Area” according to the Sussex County Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in Low-Density Areas according to the Plan.**
- 6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 7. No parties appeared in opposition to the rezoning application.**
- 8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 4 Yeas, 1 Absent**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Absent; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 275 23  
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn at 2:28 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Absent; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

**Tracy N. Torbert  
Clerk of the Council**

*{An audio recording of this meeting is available on the County’s website.}*